

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3, California Code of Regulations  
Section 3423(b), Oriental Fruit Fly Interior Quarantine  
INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3423 is to provide for the State to regulate the movement and possible carriers of Oriental fruit fly from the area under quarantine to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that amendment of Section 3423 is necessary is as follows:

Oriental fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including nuts, dates, and berries), many kinds of vegetables, and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the Oriental fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

Adult Oriental fruit flies were trapped in Orange County. On October 16, 2006, three adult

male Oriental fruit flies were taken from traps in the Santa Ana area of Orange County. On October 17, 2006, an adult male Oriental fruit fly was taken from a trap in the Santa Ana area of Orange County. On November 6, 2006, three adult male Oriental fruit flies were taken from traps in the Santa Ana area of Orange County. On November 7, 2006, two female adult Oriental fruit flies were taken from traps in the Santa Ana area of Orange County. The detection of numerous adult male Oriental fruit flies was indicative of an incipient infestation of Oriental fruit fly in the Santa Ana area of Orange County.

Adult Oriental fruit flies were trapped in the County of San Bernardino. On August 8, 2006, two adult male Oriental fruit flies were taken from traps in the Rialto area of San Bernardino County. On August 29, 2006, one adult mated female Oriental fruit fly was taken from a trap in the Rialto area of San Bernardino County. The detection of a mated adult female Oriental fruit fly was indicative of an incipient infestation of Oriental fruit fly in the Rialto area of San Bernardino County.

Oriental fruit fly has been established in Hawaii, since 1946, where it is a major pest of agriculture, particularly on mangoes, avocados and papayas. Maggots have been found in over 125 kinds of fruits and vegetables in Hawaii alone. The introduction of this pest threatens numerous crops in California, including apples, apricots, avocados, cherries, citrus, figs, nectarines, peaches, pears, plums and tomatoes. It has been estimated that the cost of not eradicating Oriental fruit fly in California would range from \$44 to \$176 million in crop losses, additional pesticide use, and quarantine requirements. Oriental fruit fly has been introduced into California a number of times, through the movement of prohibited host fruits and vegetables into the State, and has been eradicated.

Females lay eggs in groups of 3 to 30 under the skin of host fruits and vegetables; the female can lay more than 1,000 eggs in her lifetime. Time taken for development depends on the ambient temperature. Larvae tunnel through the fruit feeding on the pulp, shed their skins twice, and emerge through exit holes in approximately 10 days. The larvae drop from the fruit and burrow 2 to 3 cm. into the soil to pupate. In 10 to 12 days, adults emerge from these puparia. The newly emerged adult females need 8 to 12 days to mature sexually

prior to egg laying. Breeding is continuous, with several annual generations. Adults live 90 days on the average and feed on honeydew, decaying fruit, plant nectar, bird dung, and other substances. The adult is a strong flyer recorded to travel up to 30 miles in search of food and sites to lay eggs. Transport of fruit infested with eggs or larvae also allows the fly to spread artificially and infest new areas very quickly.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to increased pesticide use, decreased production of marketable fruit, and loss of markets if the United States Department of Agriculture or other states or countries enact quarantines against California products which can host and carry the fly.

This amendment of Section 3423(b) removed approximately 93 square miles of the area surrounding the Santa Ana area of Orange County from the area under quarantine for Oriental fruit fly. The fly was eradicated from this area on July 17, 2007; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area.

This amendment of Section 3423(b) removed approximately 65 square miles of the Rialto area of San Bernardino County from the area under quarantine for Oriental fruit fly. The fly was eradicated from this area on December 11, 2006; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area.

It was necessary to amend this regulation on an emergency basis to remove the area surrounding Santa Ana from the regulated area in order to remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in these areas. Host crops were being harvested in this area. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the areas. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would

be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Because this fly is repeatedly introduced into California with several infestations requiring quarantine action, the Department proposes to retain the regulation text and insert the word “reserved” in subsection 3423(b)(1). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

#### Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because there are no costs associated with the removal of these regulated areas in Orange and San Bernardino counties.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The cost impact of the changes in the regulations on private persons or businesses is not expected to be significant.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's

determination that this action will not have a significant adverse economic impact on businesses was based on the following:

The emergency amendment of Section 3423 (b) removed any requirements or restrictions on businesses in the Rialto area of San Bernardino County and the Santa Ana area of Orange County that should have a positive impact on businesses in that area. By removing the regulated area from the regulation, these businesses will no longer be impacted.

#### Assessment

The Department has made an assessment that repealing these regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3423(b):

Memorandum of July 9, 2007, to John Connell, from Debby Tanouye.

Memorandum of December 11, 2006, to John Connell, from Debby Tanouye.